



May 28, 2022

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2310A)  
Washington, DC 20460

**Filed Electronically: Via FOIA-Online**

RE: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests records regarding U.S. Environmental Protection Agency (EPA) hiring through means other than the competitive civil service. Specifically, we request:

1. The number and placement (i.e., assignment) of “administratively determined” hires though the special hiring authority established by the Safe Drinking Water Act or other streamlined hiring authority; and
2. The number and placement of Schedule C appointments.

We request this information broken down by fiscal year for every fiscal year from FY 2012 through FY 2022.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a)(4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The documents would inform the public about the extent which the EPA is relying upon non-competitive hires to perform its work and how those political appointees are distributed throughout the agency.

This information will enable the public to discern any trends or patterns in such hiring over time and across presidential administrations.

The nature of the material requested is the most informative possible relative to the subject matter of this request because it seeks only the details about the total numbers of such hires and their assignments.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The public at large is interested in whether administration of environmental laws is being politicized and one measure of such would be inordinate numbers of non-competitive hires concentrated in certain areas of operation.

The wide range of EPA operations affecting matters of environmental protection and public health are of interest to wide segments of the American public.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, PEER has previously generated national media coverage on the internal operations of EPA.

*4. The disclosure must contribute “significantly” to public understanding of government operations or activities.*

The requested records would aid public understanding of how EPA programs functioned during the Obama, Trump, and Biden administrations, as measured by the level of discretionary hiring.

Moreover, in recent months, top EPA officials have repeatedly complained that the agency is understaffed in both scientific and enforcement positions, which are almost exclusively filled through the competitive federal civil service process. The requested information would give the public insight into the relative personnel priorities of these officials.

*5. The extent to which disclosure will serve the requestor’s commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust

through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

*6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (510) 213-7028. I look forward to receiving the agency's final response within 20 working days.

Cordially,

A handwritten signature in black ink, appearing to read "Jeff Ruch", is positioned above the printed name.

Jeff Ruch  
Pacific PEER Director